

cept that in one the owner was a person whose usual vocation was that of farmer whereas in the other the owner was a person whose usual vocation was other than a farmer, would the legislature under Section 8.02 be justified in authorizing a separate classification?

DELEGATE CASE: I would argue most strenuously that it could not.

THE CHAIRMAN: Delegate Moser?

DELEGATE MOSER: Delegate Case, this is not a question on farm assessments. With respect to the reservation to the State of the power to tax in section 7.05 which, as you know is a local government article that was based on the Israeli case proposal and also with respect to the grandfather clause which is the last sentence of that, the county may exercise such tax powers as may be granted to it by law and may continue to exercise any tax powers—referring specifically to the words “power to tax” or “tax powers” and also referring to the same language as used in the State Finance and Taxation grandfather clause which is 8.01(b), taxing powers as it is used there. The question is, is it clear that the reservation of the taxing power and also the reference to taxing powers which the sub-divisions now have or the counties now have includes the power to grant exemptions from tax. I take it the answer is yes?

DELEGATE CASE: I wish it were as clear as you and I would like to see it. I think it is, but I have heard some dissent.

THE CHAIRMAN: Delegate Moser?

DELEGATE MOSER: I was hopeful that we might get a clear statement that by the uses of these terms we intend to reserve to the State, not — well, the power to grant the power to tax to the sub-divisions and along with it the power to grant exemptions by the sub-divisions.

DELEGATE CASE: It is my own opinion that the power to tax includes the power to exempt. When one is granted it includes the other.

THE CHAIRMAN: To paraphrase Delegate Moser's question, it is the intent of this section that the reservation of the legislature of the power to tax and the power to authorize counties to tax is intended to include also the power in the legislature to authorize counties to exempt or not exempt properties to tax.

DELEGATE CASE: That is correct.

DELEGATE MOSER: As I see the problem, it probably would not arise there.

There are cases which indicate that that is pretty nearly correct. What I am concerned about is the uses of the grandfather clauses when we say the counties will retain the taxing powers that we now have. The problem may arise from such changes as *Churchill v. Baltimore* and *Jones v. Brodey* in 135 Maryland which apply the Dillon rule and strict instructions say in effect when you grant the power to tax you do not grant the power to grant exemptions. What I am trying to elicit from you is that we do not intend by this constitutional language that narrow interpretation. We intend to include the power to grant exemptions.

DELEGATE CASE: That is correct.

DELEGATE MOSER: That is correct.

DELEGATE CASE: It was the existence of those cases which prompted me to say that under existing law there was some question about it, although there is none in my mind. Although certainly under the provisions that we have here, there should be no question about it and I hope there will not be.

THE CHAIRMAN: Delegate Gilchrist.

DELEGATE GILCHRIST: Delegate Case, following the line of Delegate Moser's questioning that was done last evening by Delegate Henderson with specific reference to the policy of granting industrial exemptions which has been in effect in a number of counties for some years, I wonder whether it might not be proper that the record would show the intention of the Committee with respect to the specific situations. First, I would assume that the Committee would feel that this has no effect on existing exemptions.

DELEGATE CASE: That is correct.

DELEGATE GILCHRIST: Then what would be the feeling of the Committee on the effect of the continuation of existing powers of certain counties to grant exemptions for new industries?

DELEGATE CASE: Well, as it is written presently, I would think that those powers would have to be exercised uniformly and I am considering, I might say, and I might as well make this announcement now, an amendment to section 8.02-2 which seeks to meet the point which Judge Henderson made last night because I think he had a good point.

THE CHAIRMAN: Delegate Case, I am not sure that your answer was responsive to Delegate Gilchrist's question. He was